

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

BABY DOE, *et al.*,

Plaintiffs,

-v.-

JOSHUA MAST, *et al.*,

Defendants,

CIVIL NO: 3:22-cv-00049-NKM-JCH

JOINT MOTION TO MODIFY THIRD AMENDED PRETRIAL ORDER

Plaintiffs Baby Doe, John Doe and Jane Doe, and Defendants Joshua Mast, Stephanie Mast, Richard Mast, Kimberley Motley, and Ahmad Osmani, by counsel, file this Joint Motion to Modify Third Amended Pretrial Order (Dkt. No. 243) to continue the trial dates, currently February 2-16, 2024, to June 3–14, 2024 (Plaintiffs’ proposed dates) or September 9-16, 2024 (Defendants’ proposed dates).

Under Rule 16(b) of the Federal Rules of Civil Procedure, the Court may modify a scheduling order for good cause. Here, good cause exists because the parties have several motions pending, the resolution of which will impact discovery and the scope of the case. Principally, the parties await a ruling on Defendants’ motions to dismiss (Dkt. Nos. 85, 88, 90, 92) and, consequently, Defendants have yet to file answers to the Amended Complaint, which may include affirmative defenses and counter claims. Further, a variety of motions are pending, including:

- Motions to lift the protective order allowing Plaintiffs to proceed with pseudonyms (Dkt. Nos. 130, 176);
- Plaintiffs’ motions to show cause (Dkt. Nos. 141, 231);
- Plaintiffs’ motion to compel Defendants Joshua and Stephanie Mast to produce documents (Dkt. No. 230);
- Joshua and Stephanie Mast’s motion to stay discovery (Dkt. No. 237); and
- Third-party Pipe Hitter Foundation’s motion to quash a subpoena (Dkt. No. 256).

Given the pending motions, full document production by the parties has not been completed and, as a result, no depositions have as yet been scheduled.

Accordingly, and following the coordination of the parties' respective calendars, the parties respectfully ask the Court to continue the trial date. The parties do not agree, though, on the length of the continuance. Plaintiffs respectfully request that the Court amend the Third Pretrial Order by moving the trial to June 3 – 14, 2024, with deadlines for discovery, expert disclosures, and dispositive motions being adjusted accordingly. Defendants respectfully request that the Court amend the Third Pretrial Order by moving the trial to September 9-20, 2024. Defendants' request for the additional time is predicated upon counsels' respective trial calendars (notably Defendant Richard Mast's counsel, who has a four- to six-week federal trial currently scheduled to begin June 24, 2024 [in a case procedurally already subsequent to motions-in-limine with only a joint pre-trial statement due]). The parties have been informed by the courtroom deputy, Carmen Amos, that the Court has the proposed new trial dates available for trial. The parties make this joint motion as a first step but do so without prejudice to seeking further continuances of the trial date given the timing of the matters pending and new discovery issues and other matters likely to arise.

The new proposed deadlines would be either of the following:

<u>Event</u>	<u>Current Deadline</u>	<u>Plaintiffs' Proposed Revised Deadlines</u>	<u>Defendants' Proposed Revised Deadlines</u>
Plaintiffs' Initial Expert Disclosures	September 27, 2023	January 10, 2024	May 1, 2024
Defendants' Initial Expert Disclosures	October 12, 2023	January 24, 2024	May 16, 2024
Deadline to Complete Discovery	90 days before trial date	90 days before trial date	90 days before trial date
Deadline to File Dispositive Motions	75 days before trial date	75 days before trial date	75 days before trial date

Deadline for Hearing Dispositive Motions	45 days before trial date	45 days before trial date	45 days before trial date
Trial	Feb. 5-16, 2024	June 3-14, 2024	September 9-20, 2024

The parties, therefore, respectfully ask the Court for an order modifying the deadlines set forth in the Third Amended Pretrial Order in accordance with whichever new trial dates the Court selects and as set forth above. A proposed Fourth Amended Scheduling Order is attached hereto for the Court's consideration.

Dated: August 31, 2023

Respectfully submitted,

/s/David Yerushalmi

David Yerushalmi, Esq.*
American Freedom Law Center
2020 Pennsylvania Avenue NW, Suite 189
Washington, D.C. 20006
(*Admitted *pro hac vice*)

E. Scott Lloyd
Lloyd Law Group, PLLC
Va. Bar # 76989
20 E. 8th Street, Suite 3
Front Royal, VA 22630
Office: (540) 823-1110
Cell: (540) 631-4081
Fax: (540) 583-4279
scott@lloydlg.com

Counsel for Defendant Richard Mast

/s/ Maya Eckstein

Maya M. Eckstein (VSB No. 41413)
Lewis F. Powell III (VSB No. 18266)
Kevin S. Elliker (VSB No. 87498)
HUNTON ANDREWS KURTH LLP
951 E Byrd St
Richmond, VA 23219
Telephone: (804) 788-8200
Fax: (804) 788-8218
Email: meckstein@HuntonAK.com

Email: lpowell@HuntonAK.com
Email: kelliker@HuntonAK.com

Jeremy C. King (admitted *pro hac vice*)
HUNTON ANDREWS KURTH LLP
200 Park Avenue
New York, NY 10166
Telephone: (212) 309-1000
Fax: (212) 309-1100
Email: jking@HuntonAK.com

Sehla Ashai (admitted *pro hac vice*)
ELBIALLY LAW, PLLC
704 East 15th Street
Suite 204
Plano, TX 75074
Telephone: (312) 659-0154
Email: ashai@elbiallylaw.com

Blair Connelly (admitted *pro hac vice*)
Zachary L. Rowen (admitted *pro hac vice*)
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, New York 10020
Telephone: (212) 906-1200
Facsimile: (212) 751-4864
Email: Blair.Connelly@lw.com
Email: Zachary.Rowen@lw.com

Damon Porter (admitted *pro hac vice*)
Ehson Kashfipour (admitted *pro hac vice*)
LATHAM & WATKINS LLP
555 Eleventh Street, NW, Suite 1000
Washington, DC 20004-1304
Telephone: (202) 637-2001
Email: damon.porter@lw.com
Email: ehson.kashfipour@lw.com

Attorneys for Plaintiffs

/s/ John S. Moran

John S. Moran (VSB No. 84236)
McGuireWoods LLP
888 16th St. N.W. Suite 500
Black Lives Matter Plaza
Washington, DC 20006
Phone: (202) 828 2817
Fax: (202) 828-3327
jmoran@mcguirewoods.com

*Attorney for Defendants Joshua Mast and
Stephanie Mast*

/s/ Michael R. Hoernlein

Thomas W. Davison
(VSB No. 94387)
Samantha Van Winter
(VSB No. 97268)
ALSTON & BIRD LLP
950 F Street, N.W.
Washington, DC 20004-1404
Tel.: (202) 756-3300
Fax: (202) 654-3333
tom.davison@alston.com
samantha.vanwinter@alston.com

Michael R. Hoernlein
(pro hac vice)
ALSTON & BIRD LLP
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel.: (704) 444-1000
Fax: (704) 444-1111
michael.hoernlein@alston.com

Sidney Webb
(pro hac vice)
ALSTON & BIRD LLP
2200 Ross Avenue, Suite 2300
Dallas, TX 75201
Tel.: (214) 922-3400
Fax: (214) 922-3899
sidney.webb@alston.com

Attorneys for Defendant Kimberley Motley

/s/ Rick Boyer

Rick Boyer (VSB No. 80154)
INTEGRITY LAW FIRM, PLLC
P.O. Box 10953
Lynchburg, VA 24506
Ph. 434-401-2093
F: 434-239-3651
Email: rickboyerlaw@gmail.com

Attorney for Defendant Ahmad Osmani

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2023, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing has been served by ordinary U.S. mail upon all parties for whom counsel has not yet entered an appearance electronically: none.

/s/David Yerushalmi
David Yerushalmi, Esq.